

SELECTED FEDERAL STATUTES

STATUTE	CITE	GRANT OF JURISDICTION?	WAIVER OF SOVEREIGN IMMUNITY?	PROVIDES/ CREATES REMEDY?
Federal Question	28 USC § 1331	Yes	No	No
Tucker Act	28 USC §§ 1346(a)(2) & 1491	Yes ⁱ	Limited ⁱⁱ	Yes/No ⁱⁱⁱ
FTCA	28 USC §§ 1346(b), 2671-2680	Yes	Limited ^{iv}	Yes/No ^v
Mandamus	28 USC § 1361	Yes	No	Yes ^{vi}
Habeas Corpus	28 USC §§ 2241-2255	Yes	Limited ^{vii}	Yes
Civil Rights	28 USC § 1343	Yes	No	Yes ^{viii}
APA	5 USC §§ 701-706	No	Limited ^{ix}	Yes ^x
Declaratory Judgment Act	28 USC §§ 2201-2202	No	No	Yes
FOIA	5 USC § 552(a)(4)	Yes	Limited ^{xi}	Yes ^{xii}
Privacy Act	5 USC § 552a (g)(1)	Yes	Limited ^{xiii}	Yes ^{xiv}
EAJA	28 USC § 2412 (b)	No	Limited ^{xv}	Yes ^{xvi}
Civil Rights Act of 1991	42 USC § 1981	No	Limited ^{xvii}	Yes

ⁱ For Tucker Act claims not exceeding \$10,000.00, concurrent jurisdiction exists in the district courts and the Claims Court. The Claims Court has exclusive jurisdiction over Tucker Act claims exceeding \$10,000.00.

ii. The Tucker Act waives the sovereign immunity of the United States for non-tort money claims founded on the Constitution, statute, regulation, or contract with the United States.

iii. The Tucker Act provides a remedy in the sense that it authorizes the recovery of money damages. Under the Tucker Act, however, a plaintiff must rely on some money-mandating provision of the Constitution (e.g., "just compensation" clause), a statute (e.g., Back Pay Act), or regulation (e.g., AAFES regulation incorporating Back Pay Act), or a contract with the United States to create the substantive right on which a claim for relief under the Tucker Act is based. The Tucker Act itself does not create the cause of action.

iv. The FTCA waives the sovereign immunity of the United States for certain tort claims for money damages if a private person would be liable under state law. The waiver of immunity is also limited by an administrative claim requirement and administrative and judicial statutes of limitations.

v. The FTCA provides a remedy in the sense that it authorizes the recovery of money damages. The FTCA, however, does not create the cause of action. The plaintiff must rely on a state law cause of action in order to recover under the FTCA.

vi. To be entitled to relief under the Mandamus Statute, (1) the plaintiff must have a clear right to relief, (2) the defendant must have a duty to act (i.e., a ministerial v. discretionary obligation), and (3) no other remedy is available.

vii. The requirements of "custody" and proper venue are jurisdictional limitations on the right to a writ of habeas corpus.

viii. The right to relief is not based on 28 U.S.C. § 1343. Rather, the plaintiff's substantive claim must be based on a violation of 42 U.S.C. §§ 1981, 1983, or 1985.

ix. The APA waives the sovereign immunity of the United States for non-monetary claims.

x. Plaintiff may only recover equitable (declarative or injunctive) relief on a claim based on the APA. Monetary relief (damages) is not available.

xi. The FOIA waives the sovereign immunity of the United States for claims seeking injunctive relief to compel an agency to produce agency records wrongfully withheld.

xii. In addition to enjoining an agency from withholding releasable records, a court may award the plaintiff costs and attorney fees.

^{xiii} The Privacy Act waives the sovereign immunity of the United States for claims: (1) challenging the failure to provide access to records; (2) challenging the refusal to amend records; (3) alleging improper maintenance of the content of records; (4) alleging other breaches of the Act which adversely affect the individual.

^{xiv} In a Privacy Act challenge alleging a failure to provide access or a refusal to amend, the plaintiff may recover injunctive relief only. In a challenge based on improper maintenance of the content of the records or other breaches of the Act which adversely affect the plaintiff, the plaintiff may recover actual damages, in addition to equitable relief.

^{xv} The EAJA waives the sovereign immunity of the United States for attorney fees to certain prevailing parties in litigation against the United States if the position of the United States was not substantially justified.

^{xvi} Generally, the amount of the award under the EAJA is limited to \$125.00 per hour.

^{xvii} The Civil Rights Act of 1991 waives the sovereign immunity of the United States for compensatory damages in claims of intentional discrimination in employment brought under Title VII of the Civil Rights Act of 1964.